BWR MISC. 98 091

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UNITED STATES DISTRICT COURT FOR
THE EASTERN DISTRICT OF PENNSYLVANIA

TITAN SPORTS, INC., a Delaware corporation, Plaintiff,	Case No. 98-CV-1871
v.	TEMPORARY RESTRAINING ORDER, ORDER FOR SEIZURE OF COUNTERFEIT MARKED GOODS, AND ORDER TO SHOW CAUSE RE PRELIMINARY INJUNCTION
VARIOUS JOHN and JANE DOES, Individuals,	FILED
and	APR - 6 1998
VARIOUS XYZ CORPORATIONS, Defendants.	MICHAEL E. KUNZ, Clerk By ______ Dep. Clerk

This matter having come on for hearing on the Plaintiff's Ex Parte Application For Temporary Restraining Order And Order For Seizure Of Counterfeit Marked Goods (the "Application"), and, after due consideration thereof, the Court makes the following findings of fact and conclusions of law and grants Plaintiff's Application:

1. Plaintiff is the owner of the marks set forth in Exhibits 1 and 2 hereto, including but not limited to WORLD WRESTLING FEDERATION, WWF, the WWF logo, and WRESTLEMANIA (the "Titan Marks"). Goods that bear any mark, word or name confusingly similar to any of the Titan Marks shall be known herein as the "Enjoined Goods." The Titan Marks are distinctive and are widely recognized by the public.

2. All of the Titan Marks listed in Exhibit 1, including but not limited to WORLD WRESTLING FEDERATION, WWF, the WWF logo, and WRESTLEMANIA are federally registered.

A TRUE COPY CERTIFIED TO FROM THE RECORD
DATED: 4/13/98
ATTEST: Alicia Ross
DEPUTY CLERK, UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA

4/8/98 mailed
A Swope
J Kyper
F Molin

PI-201146.01

3. Plaintiff has the exclusive right to apply and license others to apply the Titan Marks to goods and to use the Titan Marks in connection with rendering services.

4. Defendants are not licensed by Plaintiff to use the Titan Marks.

5. It appears to this Court that Defendants are or will be present on the premises or within a two mile radius of the halls, arenas, stadiums, or other venues where WWF events shall be occurring, including but not limited to the CoreStates Center in Philadelphia, Pennsylvania, on April 13, 1998, for the purpose of manufacturing, distributing, offering for sale and selling the Enjoined Goods.

6. The Enjoined Goods are goods bearing "counterfeit marks" within the meaning of 15 U.S.C. §1116(d).

7. Distribution, sale or offering the sale of the Enjoined Goods would cause confusion or mistake or be likely to deceive and would constitute trademark infringement under 15 U.S.C. § 1114.

8. Distribution, sale, or offering the sale of the Enjoined Goods would constitute false designation of origin under 15 U.S.C. § 1125(a).

9. Under 15 U.S.C. § 1116(a), this Court has the power to enjoin trademark infringement under 15 U.S.C. §§ 1114 and 1125(a).

10. This Court has the power to grant an ex parte Seizure Order for goods that bear counterfeits of federally registered trademarks and service marks under 15 U.S.C. § 1116(d).

11. This Court has the power under the All Writs Act, 28 U.S.C. § 1651, to grant an ex parte Seizure Order for goods that are infringing but are not counterfeits within the meaning of 15 U.S.C. § 1116(d).

12. No other order than an ex parte Seizure Order would adequately achieve the objectives of the Lanham Act, 15 U.S.C. §§ 1114, 1116 and 1125(a).

13. Plaintiff is likely to succeed in showing that Defendants have used counterfeit or infringing marks in connection with the sale, offering for sale or distribution of goods or services.

14. Notice of this Application need not be given to Defendants prior to ex parte hearing because: (a) the identities and whereabouts of Defendants are presently unknown; (b) Defendants have no business identity or stable place of business before or after Titan's wrestling events and cannot be identified; and (c) Defendants who can be located and identified may cause the immediate concealment of the Enjoined Goods or removal of the Enjoined Goods outside the access of this Court.

15. Plaintiff will suffer immediate and irreparable injury and will have no adequate remedy at law if this Court declines to grant an ex parte Seizure Order.

16. The Enjoined Goods subject to this Seizure Order will be located on the premises or within a two mile radius of the halls, arenas, stadiums, or other venues where WWF events shall be occurring, including but not limited to the CoreStates Center in Philadelphia, Pennsylvania, on April 13, 1998.

17. The harm to Plaintiff, should this Court not grant the requested Seizure Order, clearly outweighs any harm which the Defendants might incur if the Seizure Order is granted.

18. Plaintiff has not publicized the requested seizure.

19. Plaintiff has given reasonable notice of this Application to the United States Attorney for this District.

20. The file of this case has been sealed as required by 15 U.S.C. § 1116(d)(8).

21. Plaintiff has complied with all statutory requirements for the issuance of an ex parte Seizure Order.

It is accordingly ORDERED and ADJUDGED that:

1. The Defendants, John and Jane Does and XYZ Corporations and his, her, and their partners, associates, agents, servants, employees, representatives and assigns, and all others under his, her or their control or in active concert or participation with him, her or them, and all other persons and entities having actual knowledge hereof be, and the same hereby are, temporarily ENJOINED and RESTRAINED from

(a) manufacturing, assembling, selling, offering for sale, distributing or offering to distribute any Enjoined Goods which have not been authorized by Plaintiff and which bear any of the trademarks of Plaintiff set forth in Exhibits 1 and 2 hereto or any marks confusingly similar thereto, including but not limited to WORLD WRESTLING FEDERATION, WWF, the WWF (logo) as depicted in Exhibit 3 attached hereto, and WRESTLEMANIA.

(b) Representing by any method whatsoever that the Enjoined Goods were sponsored, manufactured, sold or licensed by Plaintiff and otherwise taking any action likely to cause confusion, mistake or deception on the part of the public as to the origin of the Enjoined Goods.

2. The United States Marshal and any other federal, state, or local law enforcement officer, and all persons acting under the supervision and control of the United States

Marshal or such other law enforcement officer, are hereby authorized and directed to seize and maintain in their custody and control any and all Enjoined Goods and counterfeit marks, and the means of making them, in the possession, dominion or control of Defendants, their agents or persons acting in concert or participation with them, and are further authorized, based on probable cause, to enter into and upon any containers, vessels or motor vehicles for the purpose of seizing any and all such Enjoined Goods, on the premises or within a two mile radius of the halls, arenas, stadiums or other venues where a WWF event shall be occurring, including but not limited to the WWF event at the CoreStates Center in Philadelphia, Pennsylvania, to be held April 13, 1998.

3. All Enjoined Gods seized in this action by the United States Marshal or other law enforcement officer shall be delivered up to the care and custody of Plaintiff or Plaintiff's attorneys.

4. The United States Marshall or any other federal, state, or local law enforcement officer and all persons acting under their supervision and control in accomplishing such seizure shall employ whatever reasonable force that is necessary to break open and enter the vehicles and containers of Defendants regardless of whether said vehicles or containers are locked or unlocked or occupied or unoccupied, and to inspect the contents of any vehicles or containers.

5. Anyone interfering with the execution of this Order is subject to arrest by law enforcement officials.

6. Simultaneously with said seizure, or as soon thereafter as is practical under the circumstances, each Defendant shall be served with a copy of (i) this Order, including the

notice in the form of Exhibit 4 hereto, and (ii) a Summons and the Complaint in this action. The seized goods shall be kept in identifiable containers.

7. This Order is being issued without notice to protect Plaintiff from irreparable injury to its trademarks, service marks, names and goodwill which may arise if Defendants or any person described in paragraph 1 hereof should dissipate or transfer to any third party any of the goods which are the subject of this Order.

8. Defendants shall cooperate with law enforcement officials and other persons executing such seizure and shall provide the items sought to be seized wherever such items are maintained.

9. Defendants are hereby required to provide the persons executing this Order with correct names, residential and business addresses and telephone numbers.

10. Plaintiff shall, no later than 2 pm on April 10, 1998, post security, in the form of a cash bond or corporate surety bond or other form approved by the Court, in the amount of $10,000 for the payment of such costs and damages as may be incurred or suffered by any party who is found to have been wrongfully restrained, pending the hearing and determination of the continuation of this Order.

11. Unless extended by the Court, this Order shall become valid upon the posting of bond and shall expire ten (10) days after the issuance of this Order.

12. IT IS FURTHER ORDERED that a hearing on a preliminary injunction is set for April 23, 1998, at 2pm in Courtroom No. 17A at the United States Courthouse, 601 Market Street, Philadelphia, Pennsylvania 19106, and Defendants are ordered to appear and then and there show cause, if any they have, why said injunction prohibiting Defendants from

manufacturing, distributing, offering for sale, or selling the Enjoined Goods should not issue and/or raise any objection concerning any seizure affected pursuant to this Order.

13. This Order or copies thereof may be served by any person over the age of 18 years who is not a party to this action.

14. All persons who become aware of this Action and Order are ORDERED not to reveal the existence of this Action or Order to any other person, except that persons authorized to enforce this Order may reveal its existence and contents to the extent necessary to carry out their official duties and Defendants may confer with their attorneys concerning this Action.

Done and dated at Philadelphia, Pennsylvania, this 8 day of April, 1998, at 2:30p.m.

United States District Judge, AS EMERGENCY JUDGE FOR BRUCE W. KAUFFMAN

EXHIBIT 1

REGISTERED TITAN MARKS

Mark	Reg. No.	Date	Class
WORLD WRESTLING FEDERATION	1,317,318	1/29/85	41
	1,564,148	11/7/89	6, 9, 14, 16, 18, 20, 24, 25, 28
WWF	2,131,847	1/27/98	41
the WWF logo	1,348,618	7/9/85	41
	1,574,169	1/2/90	3, 6, 9, 14, 16, 18, 20, 21, 24, 25, 28, 30
	1,697,715	6/30/92	25
WRESTLEMANIA	1,432,884	3/17/87	16, 25, 41
	1,716,716	9/15/92	41
	1,863,534	11/22/94	9
ACTION ZONE	2,123,044	12/23/94	41
PAUL BEARER	1,801,135	10/26/93	41
GOLDUST	2,129,106	1/13/98	28
UNDERTAKER	1,729,405	11/3/92	20
	1,755,482	3/2/93	25
	1,755,782	3/2/93	41
	1,771,405	5/18/93	16
	1,771,513	5/18/93	21
	1,800,817	10/26/93	24
	1,989,341	6/18/96	9
DOINK THE CLOWN	1,994,733	8/20/97	41
HARVEY WIPPLEMAN	1,772,602	5/18/93	41
YOKOZUNA	1,829,032	3/29/94	41
HART FOUNDATION	1,734,918	11/24/92	25
SUMMERSLAM	1,571,823	12/19/89	16
KING OF THE RING	2,040,704	2/25/97	41
IN YOUR HOUSE	2,066,895	6/03/97	41

SURVIVOR SERIES	1,563,878 1,860,719	10/31/89 11/1/94	41 9
TITAN ENTERTAINMENT	1,629,522	12/25/90	41
TITAN'S HOT TICKET	1,760,332	3/23/93	41
TITANSPORTS	1,286,533	7/17/84	41
WWF MAGAZINE	1,550,936	8/8/89	16
WWF MANIA plus design	1,804,870	11/16/93	41
WWF MONDAY NIGHT RAW plus design	1,802,373	11/2/93	41
RAW	2,086,903	8/12/97	41
WWF PRIMETIME WRESTLING	1,720,842	9/29/92	41
WWF RAMPAGE	1,737,784	12/01/92	41
WWF ROYAL RUMBLE	1,515,888	12/6/88	41
ROYAL RUMBLE	1,972,560	5/7/96	41
WWF SATURDAY NIGHT'S MAIN EVENT	1,775,526 1,832,936	6/8/93 4/26/94	41 41
WWF SUPERSTARS	1,819,240 1,760,329	2/1/94 8/31/93	41 16
WWF WRESTLEFEST	1,779,853	6/29/93	41
WWF WRESTLING CHALLENGE	1,607,742	7/24/90	41
SPOTLIGHT	1,556,197 1,568,366	9/12/89 11/28/89	41 16
WRESTLING SPOTLIGHT	1,997,196 1,997,145	8/27/96 8/27/96	41 16
WWF U.S. GRADE-A PRIME BEEF plus design	1,816,823	1/18/94	16

EXHIBIT 2

UNREGISTERED TITAN MARKS

WAR ZONE
RAW IS WAR
SHOTGGUN
SHOTGUN SATURDAY NIGHT
SHAWN MICHAELS
THE HEARTBREAK KID
HBK
STONE COLD STEVE AUSTIN
AUSTIN 3:16
HUNTER HEARST HELMSLEY
TRIPLE H
DEGENERATION X
DX
KEN SHAMROCK
ROCKY MAIVIA
THE ROCK
DISCIPLES OF APOCALYPSE
D.O.A.
OWEN HART
THE BLACK HART
NEW AGE OUTLAWS
CHYNA
KING OF HARTS
CACTUS JACK
CHAINSAW CHARLIE
HARDCORE LEGENDS
KANE
SUNNY
TAKA MICHINOKO
AGUILA
MARK MERO
MARVELOUS MARC MERO
SABLE
LUNA
MARLENA
THE LEGION OF DOOM
D-LO
AHMED JOHNSON
FAAROOQ
DUDE LOVE
HEADBANGERS
MOSH
THRASHER
THE PATRIOT
DEL WILKES
DINK
DOINK
DUKE DUMPSTER
HAKUSHI
DOUBLE J
JJ
SCOOP SULLIVAN

EXHIBIT 3

WWF Logo

EXHIBIT 4

NOTICE

Your Property Has Been Seized By Court Order

The United States District Court for the Eastern District of Pennsylvania has ordered the seizure of goods bearing counterfeit marks which violate the rights of Titan Sports, Inc.

Plaintiffs in this action seek an order of destruction of these counterfeit marked items.

You are a Defendant in this Lawsuit.

You can contest this Lawsuit by:

1. Identifying yourself. You will be issued a receipt specifying the number and kind of items seized.

2. You can, at the time and place specified in the attached order, appear in Court and make any claim you wish.

3. You may obtain a complete set of pleadings, motions and supporting papers in this lawsuit at no charge from Franklin B. Molin, Esq., Kirkpatrick & Lockhart LLP, 1500 Oliver Building, Pittsburgh, Pennsylvania, 15222-2312, (412) 355-6500 (phone), (412) 355-6501 (fax).

4. In addition to attending the hearing, an answer to the Complaint must be served and filed within twenty (20) days. YOU SHOULD CONSULT AN ATTORNEY.

FAILURE TO CONTEST THIS ACTION WILL RESULT IN FORFEITURE OF THE PROPERTY SEIZED AND COULD RESULT IN THE ENTRY OF A DEFAULT JUDGMENT PERMANENTLY ENJOINING YOU FROM SELLING MERCHANDISE THAT VIOLATES THE RIGHTS OF TITAN SPORTS, INC.